

D.P.U. 97-5A

Application of Fitchburg Gas and Electric Light Company:

(1) under the provisions of G.L. c. 164, § 94G and the Company's tariff, M.D.P.U. No. 199, for approval by the Department of Public Utilities of a change in the quarterly fuel charge to be billed to the Company's customers pursuant to meter readings in the billing months of February, March, and April 1997; and

(2) for approval by the Department of rates to be paid to Qualifying Facilities for purchases of power pursuant to 220 C.M.R. §§ 8.00 et seq. The rules established in 220 C.M.R. §§ 8.00 et seq. set forth the filings to be made by electric utilities with the Department, and implement the intent of §§ 201 and 210 of the Public Utility Regulatory Policies Act of 1978.

(3) under the provisions of G.L. c. 164, §94G, for approval by the Department of the actual unit and system performance of the Company with respect to each target set forth in the Company's approved performance program.

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260 Franklin Street  
Boston, Massachusetts 02110-3173  
FOR: FITCHBURG GAS AND ELECTRIC  
LIGHT COMPANY  
Petitioner

## I. INTRODUCTION

On January 4, 1997, pursuant to G.L. c. 164, § 94G and 220 C.M.R. §§ 8.00 et seq., Fitchburg Gas and Electric Light Company ("Fitchburg" or "Company") notified the Department of Public Utilities ("Department") of the Company's intent to file a quarterly change to its fuel charge in conformance with its tariff, M.D.P.U. No. 199, and to its Qualifying Facility ("QF") power purchase rates in conformance with its tariff, M.D.P.U.

No. 82. The Company requested that both these changes be effective for bills issued pursuant to meter readings for the billing months of February, March, and April 1997. The matter was docketed as D.P.U. 97-5A. In addition, on January 17, 1996, the Company filed its actual performance results relating to fuel procurement and use. Pursuant to G.L. c. 164, §94G, the Department has continued the proceeding in order to investigate the performance goals. The matter was docketed as D.P.U. 97-5A-1.

Pursuant to notice duly issued, a public hearing on the Company's quarterly fuel charge application was held on January 24, 1997, at the Department's offices in Boston. Notice of the hearing was published by the Company in the Fitchburg-Leominster Sentinel & Enterprise and the Worcester Telegram. The Company also complied with the requirement to mail a copy of the notice of the hearing to the Chairmen of the Board of Selectmen and the Town Clerks of the towns of Lunenburg, Ashby and Townsend, and the Mayor and City Clerk of the City of Fitchburg; to all persons with whom the company has special retail contracts that do not incorporate a filed rate; and to all intervenors and their respective counsel from the Company's prior two fuel charge proceedings. No petitions for leave to intervene were filed.

At the hearing, the Company sponsored two witnesses, Sheryl L. Wookey, contracts manager, Unitil Service Corporation ("UNITIL")<sup>1</sup> and Karen M. Asbury, manager of pricing for UNITIL. The evidentiary record consists of two Company exhibits.

The Company owns and operates one generating unit, Fitchburg Unit No. 7, an oil-fired unit of approximately 28 megawatts ("MW"), and receives power under various arrangements from units operated by others. The arrangements include entitlement to 20MW of the New Haven Harbor unit in Connecticut, operated by United Illuminating Company; one MW of the Wyman 4 unit, operated by the Central Maine Power Company, and 10 MW of the Vermont Yankee unit operated by Green Mountain Power. As found in its 1995 Annual Report to the Department, Fitchburg serves approximately 25,251 customers. In 1995, the Company reported revenue from retail sales of electricity of \$44,355,582.

## II. REQUEST FOR PROTECTION FROM PUBLIC DISCLOSURE

On January 17, 1997, pursuant to G.L. c. 25, § 5D, the Company requested that the Department protect from public disclosure the information contained in Schedules 9, 9A, 9B, 9C, 11A, 11B, and 11C, the Electric Fuel Charge Adjustment Worksheets and the related short-term purchase invoices in Exh. FGE-1 that pertain to the Company's short-term energy purchases (Company Letter (January 17, 1997)). During the hearing, the Company waived its request for protective treatment of the beginning dates and ending dates of the short-term contracts (Tr. at 8-9).

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<sup>1</sup> UNITIL, an affiliate of Fitchburg, provides management services to the Company including the development of the Company's electric fuel charge.

Fitchburg stated that based on its increased activity in the short-term energy purchasing market, the Company has heightened interest in ensuring that its purchases are made in as open and competitive a market as possible (id. at 7). However, the Company argued that disclosure of the identity of its suppliers would place Fitchburg at a competitive disadvantage (id. at 9). The Company further argued that disclosure of the pricing information in the schedules and worksheets to power suppliers would alert these suppliers to the Company's strategy, and, therefore, weaken the Company's bargaining position (id. at 6-7). Fitchburg asserted that this could serve to increase the cost of power to the Company, and in turn, to its ratepayers (id. at 7).

Fitchburg stated that it recognizes that the Department's policy generally has been not to protect the names of suppliers; however, Fitchburg asserted that in light of its unique service territory characteristics, disclosure of the names of its short-term suppliers would harm the Company's competitive standing (id. at 9-10). Specifically, the Company explained that it has a small service territory that is surrounded by the New England Power Company ("NEPCo") system, through which all of Fitchburg's short-term purchases are transported (id. at 10). The Company maintained that if NEPCo were able to identify the Company's suppliers, NEPCo could influence the price set, or offered by, other suppliers (id. at 11).

With respect to the pricing terms, Fitchburg argued that pricing terms are the most competitively sensitive in nature, since the terms disclose the precise price the Company has paid for power (id. at 8). The Company asserted that the Department's policy has been to grant protective treatment of this information when requested (id. at 8).

C. Standard of Review

Confidential information may be protected from public disclosure pursuant to G.L. c. 25, § 5D, which states in part that

the department may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter . There shall be a presumption that the information for which such

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Thus, the burden on the company is to establish the need for protection of the information. In determining the existence and extent of such a need, the Department must consider the presumption in favor of disclosure and the specific reasons why disclosure of the disputed information benefits the public interest. Berkshire Gas Company et al., D.P.U. 93-187/188/189/190, at 16 (1994).

The Department has recently elaborated on this requirement. See Standard of Review for Electric Contracts, D.P.U. 96-39, at 2, Letter Seeking Comments (April 1, 1996) (the utility must show the need by a specific factual demonstration) Standard of Review for Electric Contracts, D.P.U. 96-39, at 2, Letter Order (August 30, 1996) (the proponent must show the manner in which the price term is competitively sensitive); Colonial Gas Company, D.P.U. 96-18, at 4 (1996) (citing D.P.U. 96-39, Letter Order). A proponent of a request for confidentiality must substantiate why such a request meets the requirements of G.L. c. 25, § 5D. A mere assertion that a particular document is "competitively sensitive" or otherwise confidential is insufficient to meet that burden of proof. Boston Gas Company, D.P.U. 96-50 (Phase I) ("Hearing Officers' Ruling on Motion of Boston Gas Company for Confidentiality") at 4 (November 13, 1996).

#### D. Analysis and Findings

Regarding the Company's request for protective treatment of the pricing terms of its short-term contracts, the Company has explained how disclosure of the pricing terms, and the related

worksheets and schedules derived from these terms, of its short-term contracts would place the Company at a competitive disadvantage, and ultimately may increase the cost of power to Fitchburg's ratepayers. Therefore, the Department finds that the Company has demonstrated that the pricing terms, and the related worksheets and schedules, are competitively sensitive, and warrant protection from public disclosure.

With respect to the Fitchburg's request to protect the names of its short-term energy suppliers, the Department has weighed the Company's arguments versus the presumption in favor of disclosure. The Department is unpersuaded by the Company's assertion that disclosure of the names of suppliers will place Fitchburg at a competitive disadvantage. Therefore, the Department finds that the Company has failed to demonstrate that the names of its short-term energy suppliers warrant protection from public disclosure.

Accordingly, the Department hereby grants Fitchburg's request for protection from public disclosure of pricing terms and related work sheets and schedules, and denies the Company's request to protect from public disclosure the names of Fitchburg's short-term energy suppliers.



### III. FUEL CHARGE

On January 17, 1997, the Company filed with the Department its proposed changes to its fuel charge and QF power purchase rates for February, March, and April 1997. For these billing months, the Company proposes a fuel charge of \$0.05279 per kilowatthour ("KWH"). The proposed fuel charge is \$0.01058 per KWH higher than the fuel charge of \$0.04221 per KWH approved by the Department in Fitchburg Gas and Electric Light Company, D.P.U. 96-5D (1996), for meter readings for the billing months of November and December 1996, and January 1997.

Ms. Wookey stated that there were several reasons for the increase in the proposed fuel charge (Exh. FGE-1, at 3). According to Ms. Wookey, the increase is primarily the result of an underrecovery of \$961,156 in the November, December 1996, and January 1997 period (id.). Ms. Wookey indicated that the underrecovery can be attributed to several factors, including (1) an adjustment during October 1996, for maintenance expenses incurred at Vermont Yankee, (2) increases in the market price for short-term purchases, (3) increases in fuel prices, and (4) an adjustment related to transmission costs for the Green Mountain Power contract (id.). Ms. Wookey also stated that continued higher market prices for short-term purchases and higher fuel prices contributed to the increase in the Company's proposed fuel charge (Tr. at 20-21). Further, Ms. Wookey explained that the Company anticipates receiving less credit from its special contracts, thereby exerting additional upward pressure on the forecasted fuel charge (id.).

#### IV. QUALIFYING FACILITIES

Pursuant to the Department's rules, 220 C.M.R. §§ 8.00 et seq. rates to be paid to QFs for short-run power purchases are set with the same frequency as the fuel charge. A QF is a small power producer or cogenerator that meets the criteria established by the Federal Energy Regulatory Commission in 18 C.F.R. § 292.203(a) and adopted by the Department in 220 C.M.R. § 8.02.

Pursuant to 220 C.M.R. § 8.04, the Company is required to calculate short-run energy purchase rates on a time-of-supply basis for two rating periods: peak and off-peak. In addition, the Company is required to calculate a non-time-differentiated rate, i.e., a total period rate, which is a weighted average of the time-of-supply rates, where the weighting is a function of the number of hours in each rating period. See 220 C.M.R. § 8.04(4)(b). The Company is also required, under 220 C.M.R. § 8.04(6)(b), to file its short-run capacity purchase rates, calculated on a KWH basis by voltage level, according to the formula in 220 C.M.R. § 8.04(6)(a).

The Company proposed the following standard rates to be paid to QFs during February, March, and April 1997.

#### Energy Rates By Voltage Level (Mills/KWH)

| <u>Voltage Level</u> | <u>Peak</u> | <u>Off-Peak</u> | <u>Total</u> |
|----------------------|-------------|-----------------|--------------|
| NEPOOL Trans.        | 39.80       | 27.87           | 32.72        |
| Fitchburg 69KV       | 39.92       | 27.96           | 32.82        |
| 13.8 KV Subtrans.    | 40.28       | 28.21           | 33.12        |
| Primary              | 43.05       | 29.03           | 34.77        |
| Secondary            | 43.47       | 29.54           | 35.24        |

(Exh. FGE-1, Sch. C at 1)

Short-Run Capacity Rates (Mills/KWH)Voltage Level

|                 |       |
|-----------------|-------|
| NEPOOL Trans.   | 23.15 |
| Fitchburg 69 KV | 23.23 |
| 13.8 Subtrans.  | 23.44 |
| Primary         | 25.05 |
| Secondary       | 25.29 |

(Exh. FGE-1, Sch. D at 1)

V. FINDINGS

Based on the foregoing, the Department finds:

1. that the fuel charge to be applied to Company bills issued pursuant to meter readings for the billing months of February, March, and April 1997, shall be \$0.05279 per KWH. (The calculation of the fuel charge is shown in Table 1 attached to this Order.)

2. that the QF power purchase rates for February, March, and April 1997, shall be the rates set forth in Section IV above.

VI. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That Fitchburg Gas and Electric Light Company is authorized to put into effect a quarterly fuel charge of \$0.05279 per KWH as set forth in Section V, Finding 1 of this Order for bills issued pursuant to meter readings for the billing months of February, March, and April 1997, subject to refund; and it is

FURTHER ORDERED: That the fuel charge approved herein shall apply to kilowatthours sold to the Company's customers subject to the jurisdiction of the Department and shall be itemized separately on all such customers' electric bills; and it is

FURTHER ORDERED: That the Company's Qualifying Facility power purchase rates for the billing months of February, March, and April 1997, shall be those set forth in the table on page seven of this Order; and it is

FURTHER ORDERED: That the Company, in all future fuel charge proceedings, shall notify all intervenors and their respective counsel from the company's prior two fuel charge proceedings that it is proposing an adjustment to its fuel charge, and shall also notify these persons of the date scheduled for the hearing on the proposed fuel charge at least ten days in advance of the hearing; and it is

FURTHER ORDERED: That the Company, in all future fuel charge proceedings, shall provide all intervenors and their respective counsel from the prior two fuel charge proceedings with a copy of its fuel charge filing, in hand or by facsimile, on the same day it is filed with the Department; and it is

FURTHER ORDERED: That, pursuant to G.L. c. 164, § 94G (a) and (b), fuel costs allowed by this Order are subject to such disallowance as the Department may determine in any subsequent investigation of the Company's performance period that includes the quarter applicable to the present charges.

By Order of the Department,

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John B. Howe, Chairman

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Janet Gail Besser, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec 5, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).